

[REDACTED]
Internal Revenue Service
District Director

[REDACTED]
Department of the Treasury
P.O. Box 2508
Cincinnati, OH 45201

Date: MAR 20 1987
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Employer Identification Number:
[REDACTED]

Person to Contact:
[REDACTED]

Telephone Number
[REDACTED]

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(4) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth in Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,

C. Ashley Bullard

C. Ashley Bullard
District Director
[REDACTED]
[REDACTED]
[REDACTED]

Enclosures: 3
[REDACTED]

Enclosure I

Reasons for proposed denial of exempt status

[REDACTED]
[REDACTED]
The information submitted indicates you were incorporated on [REDACTED]
[REDACTED]. Your Articles of Incorporation state,
in part, that you are organized for the following purposes:

- A. To represent the mobile home owners in [REDACTED], their successors and assigns.
- B. To negotiate for, acquire and operate the [REDACTED] on behalf of the [REDACTED].
- C. To convert the [REDACTED], once acquired, to a condominium, a cooperative form, or other type of ownership. Upon acquisition of the property, the Association shall be the entity that creates a cooperative or offers cooperative units for sale or lease in the ordinary course of business, or, if the homeowners choose a different form of ownership, the entity that owns the record interest in the property and that is responsible for the operation of the property.
- D. To make and collect assessments and to purchase, lease, maintain, and replace the common areas upon purchase of the [REDACTED].
- E. To conduct Bingo games.

Your Bylaws indicate all persons owning [REDACTED] located in [REDACTED] (the "[REDACTED]") shall be eligible for membership, except that any person related to the [REDACTED] owner including but not limited to employees, agents, shareholders, officers, directors, partners or relatives by blood or marriage shall not be eligible for any type of membership. These restrictions may be waived by a majority vote of the Board of Directors.

You do not own the [REDACTED] located in [REDACTED]. The grounds are not open to the general public.

You indicated your activities and the percentage of time spent on each are as follows:

- A. Negotiate rent increases with the [REDACTED] owner, [REDACTED] percent.
- B. Make sure the [REDACTED] owner is abiding by his prospectus and [REDACTED] percent.
- C. Conduct, at a minimum, six homeowners' information meetings each year, [REDACTED] percent.
- D. Review homeowners' complaints with [REDACTED] management with a closure plan and management written reply, [REDACTED] percent.
- E. Hold one or two socials each year, [REDACTED] percent.

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Reasons for proposed denial of exempt status

- [REDACTED]
- F. Interface with the [REDACTED] by attending seminars and workshops, [REDACTED] percent.
- G. Discussion of safety, [REDACTED] maintenance and resale of homes, [REDACTED] percent.

You stated that the primary reason for starting the [REDACTED] was to protect a large senior citizen community from unfair rent increases. The [REDACTED] is now owned by a large [REDACTED]. The new owners have a very aggressive rent increase policy (last year over [REDACTED] percent). You plan to contest any such unsubstantiated rent increases this year or in future years.

The information submitted indicated that you will be financially supported by membership dues and raffles. Although your purposes as listed in your Articles of Incorporation include conducting bingo games, you stated you will not conduct bingo games.

Section 501(c)(4) of the Code provides, in part, for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the Regulations states in general that:

- (i) An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements.
- (ii) The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

In Flat Top Lake Association, Inc. v. United States, 868 F.2d 108 (4th Cir. 1989), the association was not deemed a "community" for purposes of Federal exemption under Section 501(c)(4) of the Code as a social welfare organization. It was stated that "an organization cannot serve social welfare if it denies its benefits to the general public". The Court ruled that the organization operated for the exclusive benefit of its members and it did not serve a "community" as that term related to a broader concept of social welfare.

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[REDACTED]

The Court articulated its decision with an explanation of the distinction between the advancement of private interests and the promotion of social welfare. "Although it is unquestionably their right to do so, when a group of citizens elect, as have the inhabitants of Flat Top Lake, to separate themselves from society and to establish an entity that solely advances their own private interests, no potential for general social advancement is implicated... Wholly private activity, however meritorious, confers no such benefit which would render a compensatory exemption appropriate." Id. at 112.

Specifically, under section 501(c)(4) of the code, a homeowners' association must operate for the benefit of the general public, i.e., it must provide a community benefit. Our position regarding the exemption of homeowners' associations under section 501(c)(4) is set forth in a number of revenue rulings.

Revenue Ruling 73-306, 1973-2 C.B. 179, describes a nonprofit organization formed to promote the common interest of tenants who reside in an apartment complex. Any person regularly living in the complex is eligible for membership. The organization represents members in negotiations with management of the complex in order to secure better maintenance and services, and to secure reasonable rentals. The organization is operated essentially for the private benefit of its members. Thus, it is not primarily engaged in activities for the common good and general welfare of the people of the community and, therefore, does not qualify for exemption under section 501(c)(4) of the Code.

Revenue Ruling 74-99, 1974-1 C.B. 131, describes the circumstances in which a homeowners' association may qualify for exemption under section 501(c)(4) of the Internal Revenue Code. The ruling states that three elements must be satisfied:

- 1) it must serve a "community" that bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or unit;
- 2) it must not conduct activities directed to the exterior maintenance of private residences; and,
- 3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

The ruling also states that a "community", within the meaning of section 501(c)(4) of the Code, is not merely "an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of real estate subdivision and the sale and purchases of homes therein". The term as contemplated in the Code "has traditionally been construed as having reference to a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof".

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[REDACTED]
[REDACTED]
Revenue Ruling 80-63, 1980-1 C.B. 116, addresses pertinent questions as to whether the conduct of certain activities will affect the exempt status under section 501(c)(4) of the Code of otherwise qualifying homeowners' associations. The ruling states, in part, that:

- 1) the term "community" does not embrace a minimum area or certain number of homeowners, and
- 2) a homeowners' association may not receive an exemption if it represents an area that is not a community and it restricts the use of its recreational facilities to only members of the association.

You are similar to the organization in Revenue Ruling 73-306. While you claim to promote social welfare, you in fact create a direct benefit to the tenants of [REDACTED]. You represent these tenants in negotiations with the owners of the [REDACTED]. Your membership is not open to the general public. As seen in Flat Top Lake Association, Inc. v. United States, "An organization cannot serve social welfare if it denies its benefits to the general public". In addition, you do not meet the criteria to constitute a community as described in Revenue Rulings 74-99 and 80-63 because [REDACTED] does not represent a geographical unit of a governmental subdivision or a unit or a district of a governmental subdivision. The Park is not a community within the meaning of section 501(c)(4) of the Code.

It is our opinion that you do not qualify for exemption from Federal income tax.

[REDACTED]

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare In
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

Name and Address of Organization

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)() to 501(c)(), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)(), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date